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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
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12 JAMES DREW LOCKHART,) Case No. CV 17-3550-JVS (JPR)
13)
14 Plaintiff,)
15 v.) ORDER ACCEPTING FINDINGS AND
16) RECOMMENDATIONS OF U.S.
17) MAGISTRATE JUDGE
18 NANCY A. BERRYHILL, Acting)
19 Commissioner of Social)
20 Security,)
21)
22 Defendant.)
23

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the
19 Complaint, Joint Stipulation, Administrative Record, and all
20 other records on file as well as the Report and Recommendation of
21 U.S. Magistrate Judge. On September 5, 2018, Plaintiff filed
22 Objections to the R. & R. Defendant filed a Reply on September
23 26. The Court has made a de novo determination of those portions
24 of the R. & R. to which Plaintiff objected.

25 For the most part, as he did in the Joint Stipulation,
26 Plaintiff simply restates principles of law without applying them
27 to the specific facts of this case. Where he does specifically
28 find fault in the Magistrate Judge's factual findings or

1 analysis, his arguments are not convincing.

2 For example, Plaintiff contends that certain factual
3 findings the Magistrate Judge made about his ejection fractions
4 were erroneous and therefore that he qualified under Listing
5 4.02. (See Objs. at 6.) But the Magistrate Judge found that the
6 ALJ "likely erred" in finding that Plaintiff could not satisfy
7 the portion of 4.02 concerning ejection fractions but that he
8 could not show that he met the listing's other requirements. (R.
9 & R. at 39.) Accordingly, any factual error by the Magistrate
10 Judge was harmless.

11 Plaintiff objects that the ALJ's rejection of his subjective
12 symptom testimony was not properly analyzed, in part because he
13 has "subsequently" been assessed as falling into Class III of the
14 American Heart Association's heart-failure categories, indicating
15 marked limitation in physical activity. (See Objs. at 9.) But
16 as the Magistrate Judge noted, at all relevant times Plaintiff
17 was found to fall into Class I or II, the latter indicating only
18 "slight limitation of physical activity." (See R. & R. at 15
19 n.9; see also id. at 14, 16, 17, 40.) That Plaintiff's condition
20 may have deteriorated at some point after the ALJ's decision is
21 of no moment.

22 Plaintiff also takes issue with the Magistrate Judge's
23 statement that he did not point to any error in the reasons the
24 ALJ gave for discounting the credibility of his symptom
25 statements (R. & R. at 6, 20-27), asserting that "the Joint
26 Stipulation repeatedly references testimony and treatment records
27 in support of a finding that Plaintiff's symptoms were . . .
28

1 credible."¹ (Objs. at 10 (citing J. Stip. at 16 & 41).) But
2 page 16 falls in Plaintiff's section of the Joint Stipulation
3 concerning the ALJ's evaluation of the doctors' opinions, not the
4 credibility of Plaintiff's statements. It simply recounts a
5 particular doctor's functional-limitation findings for Plaintiff.
6 Similarly, page 41 is in Plaintiff's portion of the Joint
7 Stipulation addressing the ALJ's RFC finding, not the part
8 challenging his assessment of Plaintiff's credibility.
9 Plaintiff's "hindsight attempt to string together an argument
10 from quotes scattered throughout [his] opening brief" is
11 insufficient to preserve an issue for appeal. See Christian
12 Legal Soc'y Chapter of Univ. of Cal. v. Wu, 626 F.3d 483, 487-88
13 (9th Cir. 2010); see also Stewart v. Colvin, No. CV 13-0105-GF-
14 BMM, 2015 WL 275737, at *8 n.1 (D. Mont. Jan. 22, 2015) ("A court
15 will not do an appellant's work for it, either by manufacturing
16 its legal arguments, or by combing the record on its behalf for
17 factual support." (citation omitted)), aff'd, 674 F. App'x 634
18 (9th Cir. 2017).

19 For all these reasons as well as those pointed out in
20 Defendant's Reply to Plaintiff's Objections, the Magistrate Judge
21 did not err. Having reviewed the record, the Court concurs with
22 and accepts the Magistrate Judge's recommendations. IT THEREFORE
23 IS ORDERED that judgment be entered in the Commissioner's favor.

24
25 DATED: 2/11/2019



JAMES V. SELNA
U.S. DISTRICT JUDGE

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27
28 ¹ Plaintiff actually wrote "were not credible" in his
Objections, but that appears to have been a scrivener's error.